IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PIL WRIT PETITION NO.2141 OF 2005

Sanjiv Gajanan Punalekar ..Petitioner.
Vs.
The State of Maharashtra ..Respondent.

None for the petitioner.
Mr.Vishal Phal, A.G.P. for the respondent.

CORAM: R.M. LODHA AND
S.J.VAZIFDAR, JJ.

DATED: 13TH JULY, 2006

P.C. :

Though none appears for the petitioner, we perused the petition and the reply affidavit filed on behalf of the State Excise Department.

2. In paragraph 8 of the reply affidavit, the following statement has been made :

> "I say that Divisional Staff pays surprises visits to the license premises and inspect the transaction under the license and registers breach case and submit the report to the Superintendent/Collector for cancellation/suspension/penalty. I say that Divisional Staff also register the case of illegal distillation, illegal transportation, illegal sale of liquor and also produced the accused before the Hon'ble Court.

> I further say that even Flying squad under the Superintendent perform similar duties and there are 6 divisional flying squad under the Control of six Divisional Dy. Comissioner and who pays regularly surprises visit to the licensee’s premises. Thus there is a constant inspection done by the staff of the Divisional flying squad and also keep constant vigil to ensure that the provision of Bombay Prohibition Act are not contradicted. I say further that the Excise staff has their own informer and information regarding illegal activities of the licensee are trapped and information is immediately attended too."

3. In paragraph 12, the following statement has been made :

> "I say that the Police Department has vast jurisdiction under the Indian Penal Code and can also implement under the Bombay Prohibition Act and it is not correct to say that only power of confiscation under Section 100, 101, 125 have been delegated to the Police Department."

4. In paragraph 15 of the reply affidavit, the following statement has been made :

> "I say that under Section 85 of the Bombay Prohibition Act person can be prosecuted for causing nuisance after drinking as is done

under Indian Penal Code by Police Department."

5. Having perused the reply affidavit, we are of the view that there are sufficient legal provisions and as and when any non-compliance is found out, any person can bring such non-compliance to the notice of the concerned authorities and such authorities shall look at the matter expeditiously.

6. With the aforesaid observation, the writ petition stands disposed of.

(R.M. LODHA, J.)

(S.J. VAZIFDAR, J.)